

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA
AT BLUEFIELD

MICHAEL ARMSTRONG,

Plaintiff,

v.

CIVIL ACTION NO. 1:18-01466

RALPH JUSTUS, et al.

Defendants.

MEMORANDUM OPINION AND ORDER

Pending before the court is defendants' motion to enforce a settlement agreement. (ECF No. 64.) On November 1, 2021, the court held a hearing on this matter. Defendants reiterated their position that there was a valid settlement. Plaintiff's counsel agreed. Plaintiff's counsel stated that he had authority to enter into the settlement and that there was a meeting of the minds. Plaintiff disagreed.

Plaintiff and his counsel stated that written communications between them may help the court determine whether there was a valid settlement. The court explained to plaintiff that these communications are covered by the attorney-client privilege, and plaintiff stated that he wished to waive the privilege. The court made a finding that plaintiff had waived the attorney-client privilege as to the communications pertinent to whether there was a valid settlement.

For the reasons expressed at the hearing, the court sets an evidentiary hearing to determine whether there was a valid settlement of this case. The hearing will be held on **December 1, 2021**, at 2:30 p.m. in Bluefield. Plaintiff and his counsel, and an attorney for each defendant who has not been dismissed from the case, are ordered to appear. The parties are invited to brief whether West Virginia law or federal common law applies to the question of whether plaintiff's counsel had authority to settle the case.

The Clerk is directed to send a copy of this Memorandum Opinion and Order to counsel of record. Plaintiff's counsel is directed to forward it to plaintiff immediately.

IT IS SO ORDERED this 2nd day of November, 2021.

ENTER:

A handwritten signature in black ink, reading "David A. Faber", is written over a horizontal line.

David A. Faber

Senior United States District Judge